

FILED
Clerk
District Court

FEB 16 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

ALAN STUART MARKOFF, D.D.S.,)
doing business as TOOTHWORKS)
and OPEN CHOICE,)

Plaintiff)

v.)

TODD KEITH JOHNSON, D.D.S.,)

Defendant)
_____)

Civil Action No. 05-0035

NOTICE OF ORDER
GRANTING MOTION TO
STRIKE SECOND CLAIM
FOR RELIEF, WITH LEAVE
TO AMEND

THIS MATTER came before the court on Thursday, February 16, 2006, for hearing of defendant's motion to dismiss the second claim for relief. Plaintiff appeared by and through his attorney, Eric S. Smith; defendant appeared by and through his attorney, George L. Hasselback.

THE COURT, having considered the written and oral arguments of the parties, adopted its tentative ruling and granted the motion to dismiss the second

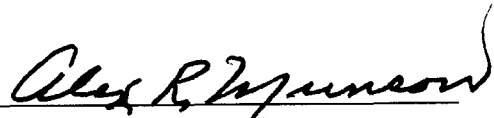
1 claim for relief, with leave to amend.

2 Plaintiff's second claim for relief is based on fraud. Federal Rule of Civil
3
4 Procedure 9(b) requires that the circumstances constituting fraud shall be stated
5 with particularity. The court finds that the interests of the court, the parties, and
6 judicial economy will best be served by requiring plaintiff to more particularly state
7 the nature of the alleged fraud, including the substance of the statements or
8 documents allegedly fraudulent, and the time, place, and medium of the allegedly
9 fraudulent statements. Such allegations will enable the defendant to precisely frame
10 his answer and narrow the scope of discovery. Plaintiff shall have until 3:30 p.m.,
11
12 Friday, February 24, 2006, to file his amended complaint.
13

14 The name of attorney Robert J. Filteau is ordered stricken from all
15 documents filed to date. He has neither sought nor been granted pro hac vice
16 admission.
17

18 IT WAS SO ORDERED.

19 DATED this 16th day of February, 2006.
20

21
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23 ALEX R. MUNSON
24 Judge
25
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